

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**FCSTONE MERCHANT SERVICES, LLC**

*Plaintiff,*

**v.**

**SGR ENERGY, INC. and ST SHIPPING & TRANSPORT PTE LTD., and THOMAS SAN MIGUEL, Individually**

*Defendants.*

**CIVIL ACTION NO. 4:20-cv-03693**

## UNOPPOSED MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL

Defendants SGR Energy, Inc. (“SGR”) and Thomas San Miguel (“San Miguel”) (collectively, ”SGR Defendants”) file this Unopposed Motion to Withdraw D. Mitchell McFarland, J. Mark Deaton, and the law firm of Munsch Hardt Kopf & Harr, PC (“Counsel”), as attorneys of record and Substitute Counsel Brendon Singh of the law firm of Tran Singh, LLP as attorney of record (the “Motion”) and would respectfully show the Court as follows:

## I. FACTUAL AND PROCEDURAL BACKGROUND

On October 27, 2020, Plaintiff FCStone Merchant Services, LLC (“Plaintiff” or “FCStone”) filed its Original Complaint against SGR and ST Shipping & Transport PTE, Ltd. (“STS”) [Dkt. 1]. After STS filed a Motion to Dismiss pursuant to Rule 12(b)(6) [Dkt. 9], Plaintiff amended its complaint and added Defendant San Miguel [Dkt. 14, First Amended Complaint]. SGR filed a motion to dismiss pursuant to Rule 12(b)(6) [Dkt. 18]; San Miguel filed a later motion on the same grounds [Dkt. 31]. The Court denied SGR’s motion but granted San Miguel’s motion

in part dismissing Plaintiff's cause of action for tortious interference. Thereafter, the SGR Defendants answered and the Court held a scheduling conference at which all parties agreed to a trial term commencing on November 7, 2022. Discovery is set to close on April 13, 2022 and the parties have exchanged requests for production and interrogatories. No depositions have yet occurred.

On November 15, 2021, SGR initiated a voluntary bankruptcy proceeding in the Southern District of Texas, Victoria Division. This matter was then subject to the automatic stay of 11 U.S.C. 362 because SGR was a petitioning debtor in a bankruptcy proceeding. At that time, the Court terminated all then-existing case deadlines.

SGR Energy thereafter moved to voluntarily dismiss the bankruptcy petition. On December 14, 2021, the bankruptcy court granted SGR's motion and dismissed the petition. New deadlines have not yet been established in this case since the termination of the automatic stay.

SGR Energy has obtained replacement counsel Brendon Singh of the firm of Tran Singh, LLP to assist it in this litigation and, potentially, other reorganization-related matters. SGR Energy desires to replace its representation in this matter with this new counsel.

## **II. ARGUMENT**

LCvR83.2 permits the withdrawal of an attorney by motion as long as delay is not caused by the withdrawal.

"An attorney may withdraw from representation only upon leave of the court and a showing of good cause and reasonable notice to the client." *In re Wynn*, 889 F.2d 644, 646 (5th Cir. 1989) (citation omitted).

Good cause exists under Texas Rule of Professional Conduct 1.15(b)(7) for Counsel's withdrawal because the SGR Defendants explicitly expressed to former counsel McFarland and

Deaton on November 18, 2021 their belief that the former counsel cannot adequately represent their interests going forward. Good cause also exists because the SGR Defendants have determined that their interests herein and in other matters should be represented by replacement counsel Brendon Singh.

Granting the Motion will not adversely affect the efficient litigation of this case. The matter against SGR was stayed because of the bankruptcy filing and it has not recommenced active litigation. McFarland and Deaton agree to cooperate in the efficient handover the representation of the SGR Defendants to replacement counsel Brendon Singh immediately upon the Court's approval. Attorney Singh represented SGR Energy for the voluntary termination of the bankruptcy.

As shown in the attached Certificate of Conference, McFarland and Deaton have conferred with counsel for Plaintiff and counsel for co-defendant STS concerning the Motion. Counsel for Plaintiff and STS do not object to the Motion.

For the reasons above reasons, Defendants SGR Energy, Inc. and Thomas San Miguel respectfully request that the Court grant this Motion for D. Mitchell McFarland, J. Mark Deaton and the firm of Munsch Hardt Kopf & Harr, PC, to Withdraw as Counsel of Record and the Court to Substitute Brendon Singh and the firm of Tran Singh, LLP as Counsel of Record and grant such other and further relief to which they may show themselves to be justly or equitably entitled.

Respectfully submitted,

**MUNSCH HARDT KOPF & HARR, PC**

By: /s/ D. Mitchell McFarland

**D. Mitchell McFarland**

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**WITHDRAWING ATTORNEYS FOR  
DEFENDANTS SGR ENERGY, INC. AND  
THOMAS SAN MIGUEL**

**TRAN SINGH, LLP**

By: /s/ Brendon Singh

**Brendon Singh**

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**SUBSTITUTING ATTORNEY FOR  
DEFENDANTS SGR ENERGY, INC. AND  
THOMAS SAN MIGUEL**

**CERTIFICATE OF CONFERENCE**

I, THE UNDERSIGNED ATTORNEY, HEREBY certify to the Court that our firm has conferred with counsel for Plaintiff FCStone Merchant Services, LLC and co-defendant ST Shipping & Transport PTE, Ltd. regarding the foregoing Motion and counsel informed me that they do not oppose this Motion.

*/s/ D. Mitchell McFarland*

**D. Mitchell McFarland**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was served upon the following counsel of record on January 20, 2022, pursuant to the Federal and Local Rules of Civil Procedure:

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*/s/ D. Mitchell McFarland*

**D. Mitchell McFarland**